

FALLSGROVE VILLAGE CENTER

LEASE

by
and
between

FG RETAIL GROUP, L.L.C.

and

MONTGOMERY COUNTY, MARYLAND

TRADING AS

Department of Liquor Control for Montgomery County

Tuesday, April 08, 2003
Execution

FALLSGROVE VILLAGE CENTER LEASE

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EXHIBITS

Exhibit A	Site Plan
Exhibit B	Landlord and County Improvements
Exhibit C	Signage Criteria
Exhibit D	Rules and Regulations

FALLSGROVE VILLAGE CENTER

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made this 15th day of May, 2003, by and between FG RETAIL GROUP, L.L.C., a Maryland limited liability company (hereinafter referred to as "Landlord"), and MONTGOMERY COUNTY, MARYLAND, through the Department of Liquor Control, Montgomery County, Maryland, trading as Department of Liquor Control for Montgomery County ("County") whose business and mailing address is 101 Monroe Street, 2nd Floor, Rockville, Maryland 20850.

ARTICLE I

REFERENCE PROVISIONS, DEFINITIONS AND EXHIBITS

As used in the Lease, the following terms shall have the meanings set forth in Sections 1.1 and 1.2 below.

SECTION 1.1. REFERENCE PROVISIONS.

A. Premises: Such space located approximately within the "cross-hatched" area indicated on the site plan attached as Exhibit "A", known as Store Nos. C-2-5 and C-2-3, comprising approximately three thousand eight hundred eighty-five (3,865) square feet of the Shopping Center (as defined in Section 1.1.M below) and as further described in Article II.

B. Term: Ten (10) years from the Rent Commencement Date, plus the period from the date of this Lease through the Rent Commencement Date.

C. Term Commencement Date: The date upon which the Landlord delivers the Premises to County (which shall be deemed to have occurred upon substantial completion of Landlord's Work as described in Exhibit "B").

D. Rent Commencement Date: The earlier of (a) the date County opens for business from the Premises, or (b) ninety (90) days after the Term Commencement Date.

E. Termination Date: The last day of the Term, or such earlier date if this Lease is sooner terminated in accordance with the provisions hereof.

F. Minimum Rent:

<u>Month(s):</u>	<u>Annually:</u>	<u>Monthly:</u>	<u>PSF:</u>
1-12	\$115,950.00	\$9,662.50	\$30.00
13-24	\$131,410.08	\$10,950.84	\$34.00
25-36	\$146,870.04	\$12,239.17	\$38.00
37-48	\$149,807.40	\$12,483.95	\$38.76
49-60	\$152,783.45	\$12,731.95	\$39.53
61-72	\$155,875.45	\$12,989.62	\$40.33
73-84	\$158,967.45	\$13,330.62	\$41.13
85-96	\$162,175.44	\$13,514.62	\$41.96
97-108	\$165,383.35	\$13,781.94	\$42.79
109-End of Term	\$168,707.28	\$14,058.94	\$43.65

G. Percentage Rent Factor: N/A.

H. Security Deposit: N/A.

I. Use:

For the display and retail sale of liquor, with the incidental sale of beer and wine, as normally sold in a majority of other Montgomery County Alcohol Beverage Control stores; and for no other purpose or purposes whatsoever.

- J. Store Hours: At a minimum Monday through Saturday 10:00 a.m. to 9:00 p.m.
- K. Rent Payments: The rent payments due herein shall be made payable to Landlord

at:

FALLSGROVE VILLAGE CENTER
 c/o Lerner Corporation, Managing Agent
 11501 Huff Court
 North Bethesda, Maryland 20895-1094
 Attention: Accounts Receivable

- L. Notice Addresses:

TO LANDLORD:
 FALLSGROVE VILLAGE CENTER
 c/o Lerner Corporation, Managing Agent
 11501 Huff Court
 North Bethesda, Maryland 20895-1094
 Attention: Legal Department

TO COUNTY:
 Montgomery County Leasing Management
 101 Orchard Ridge Drive
 2nd Floor
 Gaithersburg, Maryland 20850
 Tel. (240) 777-6080
 Fax (240) 777-6047

With a courtesy copy to:
 Office of the County Attorney
 Montgomery County
 101 Monroe Street
 3rd Floor
 Rockville, Maryland 20850
 Tel. (240) 777-6700
 Fax (240) 777-6705
 (provided that the failure to send such courtesy copy shall not validate an otherwise valid notice)

M. Shopping Center: Subject to Section 2.3, that certain shopping center which Landlord intends to construct or cause to be constructed and which is to be known as Falls Grove Village Center (or such other name adopted by Landlord from time to time), located at or near the intersection of Falls Grove Boulevard and Shady Grove Road, Rockville, Maryland, as more particularly outlined on Exhibit "A" attached hereto.

- N. County Trade Name: Department of Liquor Control for Montgomery County

O. Schedules and Exhibits: The schedules and exhibits listed below are attached to the Lease and are hereby incorporated in and made a part of the Lease.

- | | |
|-----------|----------------------------------|
| Exhibit A | Site Plan |
| Exhibit B | Landlord and County Improvements |
| Exhibit C | Signage Criteria |
| Exhibit D | Rules and Regulations |

SECTION 1.2. DEFINITIONS.

A. Common Areas: Any improvements, equipment, areas and/or spaces as the same may be enlarged, reduced, replaced, increased, removed or otherwise altered by Landlord for the non-exclusive, common and joint use or benefit of Landlord, County and other tenants, occupants and users of the Shopping Center. The Common Areas may include (not to be deemed a representation as to their availability) parking areas, parking decks, offices, public meeting rooms, roofs, canopies, gutters, down spouts, storm drainage facilities, retaining walls, bus stops, shelters, directories, computer facilities, access roads, driveways, landscaped areas, lighting facilities, serviceways, tunnels, loading docks, pedestrian malls, stairs, sidewalks, ramps, comfort and first

aid stations, public washrooms, and other similar areas and improvements.

B. Major Tenants: Those tenants (i) leasing so-called "pad sites," or (ii) leasing space within the Shopping Center which contains a floor area of five thousand (5,000) square feet or more, or (iii) occupying space for community, management or storage purposes.

C. Floor Area: Unless otherwise specifically set forth in this Lease, "Floor Area," when used with respect to the Premises, shall mean the actual number of square feet set forth in Section 1.1.A. When used with respect to any other space in the Shopping Center (or the entire Shopping Center), Floor Area shall mean the actual number of leasable square feet as shown on Landlord's plans for the Shopping Center but excluding: (i) mezzanines, and (ii) all warehouse or storage areas, management offices, meter rooms, electrical rooms, utility rooms, community offices and facilities, and other areas designated by Landlord. Floor Area shall be measured to the exterior faces of all exterior walls and to the centerline of any walls separating the Premises from other tenant premises (whether leased or not).

D. Interest: A rate per annum (not to exceed ten percent (10%)) equal to three (3) percentage points above the prime rate, published in The Wall Street Journal (or if more than one rate is published, the average prime rate). Interest shall change on and as of each day on which a change in the prime rate occurs. If accrual or payment of such interest rate is unlawful, then Interest shall be equal to the maximum lawful rate.

E. Lease Year: The period beginning on the Rent Commencement Date and ending on the last day of that calendar year and each succeeding calendar year (or portion thereof at the end of the Term).

F. Person: An individual, firm, partnership, limited partnership, association, corporation, limited liability company, or any other entity.

G. Rent: All sums payable by County to Landlord under the Lease, including but not limited to, Minimum Rent, Percentage Rent, Tax Rent, insurance payments, Marketing Fund Dues and Landlord's Operating Costs.

H. INTENTIONALLY DELETED.

SECTION 1.3. REFERENCES AND CONFLICTS. References appearing in Article I hereof are intended to designate some of the other places in this Lease where additional provisions applicable to the particular provisions contained in this Article I appear. These references are for convenience only and shall not be deemed all inclusive. Each reference in this Lease to any of the provisions contained in this Article I shall be construed to incorporate all of the terms provided for under such provisions, and such provisions shall be read in conjunction with all other provisions of this Lease applicable thereto. If there is any conflict between any of the provisions contained in this Article I and any other provisions of this Lease, the latter shall control.

ARTICLE II

PREMISES AND THE SHOPPING CENTER

SECTION 2.1. PREMISES. Landlord, for and in consideration of the Rent and the other conditions and covenants to be observed, satisfied, fulfilled and performed by County, demises and leases to County, and County leases and takes from Landlord, the Premises, extending, as the case may be, to (i) the exterior faces of those walls abutting the exterior of the Shopping Center, or (ii) the center line of those walls separating the Premises from other premises within the Shopping Center, and shall include the floor coverings, interior ceilings, and, without limitation, space in any mezzanines and basements, if any, leased to County, each upon the terms and conditions of this Lease. Landlord shall have the exclusive right to (i) use the exterior faces of the exterior walls of the Premises and the roof of the Shopping Center, and (ii) install, maintain, use, repair and replace pipes, ducts, cables, conduits, plumbing, vents, utility lines and wires to, in, through, above and below the Premises and other parts of the Shopping Center as and to the extent that Landlord deems appropriate.

SECTION 2.2. LANDLORD'S RIGHT TO DESIGNATE PREMISES. INTENTIONALLY DELETED.

SECTION 2.3. EXCULPATION PROVISION. INTENTIONALLY DELETED.

ARTICLE III

TERM

SECTION 3.1. TERM. The Term shall commence on the Term Commencement Date and expire on the Termination Date. Upon five (5) days' request of Landlord, County agrees to acknowledge and confirm, by execution of the Verification Letter attached to this Lease as Exhibit "F", the dates specified in Article I.

SECTION 3.2. END OF TERM. Upon the expiration or sooner termination of the Term, County shall quit and surrender to Landlord the Premises, broom-clean, in good order and condition, ordinary wear and tear excepted; and shall surrender to Landlord all keys to or for the Premises. Any property of County not promptly removed shall be deemed to have been abandoned by County and to have become the property of Landlord and may be retained by Landlord or disposed of at County's expense (County hereby agreeing to remain liable for the cost thereof even though this Lease shall have terminated) as Landlord shall so desire.

SECTION 3.3. HOLDING OVER. The County, upon expiration or termination of this Lease, either by lapse of time or otherwise, shall peaceably surrender to Landlord the Premises in broom clean condition and in good repair. In the event that the County shall hold over after the expiration of this Lease, and any renewals thereof without the consent of Landlord, the tenancy created by such holding over shall be a month-to-month tenancy only, but in all other respects shall be governed by the terms of this Lease, provided, however, that in all cases a thirty (30) day notice shall be required to terminate the tenancy created by such holdover. If the County shall hold over after the expiration of this Lease, and any renewals thereof, it shall, in the absence of any agreement to the contrary, be a month-to-month tenancy at one and one-half the monthly rate in effect during the last month of the expiring Term plus additional Rent. Should the County hold over after the expiration of this Lease, and any renewals thereof, after first obtaining Landlord's written consent but prior to an actual lease being executed, the County's tenancy shall be deemed to be upon a month-to-month basis at one hundred and three percent (103%) of the monthly Minimum Rent paid during the last Lease Year of the Term.

ARTICLE IV

USE AND OPERATION OF THE PREMISES

SECTION 4.1. CONTINUOUS OPERATION BY COUNTY.

A. County shall (i) open the Premises for business on the Rent Commencement Date; (ii) carry at all times in the Premises a full stock of merchandise and perform a full line of services (if, and to the extent, permitted under Section 1.1.1); (iii) conduct its business in the Premises in a first-class manner and consistent with reputable business standards and practices consistent with the County's operation of other County Liquor stores; and (iv) occupy and operate one hundred percent (100%) of the Premises continuously and uninterruptedly during all of the Store Hours during the entire Term in accordance with the terms of this Lease, and with due diligence and efficiency, and shall use County's best efforts to maximize County's Gross Sales in the Premises. County shall utilize for storage and office space only those areas indicated for such use on County's plans approved by Landlord.

B. If County violates any provision of this Section 4.1(A)(iv) then, in addition to all other rights and remedies provided in the Lease, County shall pay, in addition to other Rent, liquidated damages in an amount equal to One Hundred Percent (100%) of the Minimum Rent per day for each and every day (or portion thereof) that such violation shall continue. Payment of such sums are intended to be only a partial and temporary remedy for Landlord during the continuance of such violation, and therefore shall not relieve County of any obligation under the Lease, excuse any such Default or waive Landlord's other remedies therefore. The parties acknowledge that the damages that will accrue from a violation of this Section 4.1(A)(iv) are in their nature uncertain and incapable of actual ascertainment at this time, and payment of such sums specified herein shall be treated as liquidated damages and not as a penalty. The violation of Sections 4.1(A)(I), (ii) and (iii) shall entitle Landlord to all legal remedies.

SECTION 4.2. USE AND TRADE NAME. County shall use the Premises solely for the Use set forth in Section 1.1.1 and for no other purpose. County shall operate its business in the Premises solely under the County Trade Name and under no other name. County shall, at its expense, procure any and all governmental licenses and permits required for the conduct of County's business at the Premises and shall, at all times, comply with the requirements of each such license and permit. In all of its printed, visual or audio advertising in the Washington, D.C. metropolitan area, County shall make reference to the name "Fallsgrove Village Center."

SECTION 4.3. STORE HOURS. County shall conduct its business in the Premises continuously during the Store Hours.

SECTION 4.4. SIGNS AND ADVERTISING.

A. Prior to the Rent Commencement Date, County shall install, at its sole cost, sign(s) required pursuant to the Signage Criteria attached as Exhibit "C", as the same may be amended or modified from time to time by Landlord in its sole option and discretion. The size, design, content, character and location of such sign(s) shall be subject to Landlord's prior written approval, which approval may be withheld in Landlord's sole and absolute discretion. County shall also install professionally lettered signs on its service doors in accordance with Exhibit "C" (if any). All sign permits which are required for any such signs shall be obtained and paid for by County. County shall submit to Landlord detailed drawings of all proposed signs for review and approval by Landlord prior to installation or utilization of the signs.

B. County shall not place on the exterior of the Premises, on the door, window or roof thereof, in any display window space on any storefront glass, or within five (5) feet behind any storefront of the Premises any sign, placard, decoration, lettering, advertising matter or descriptive material. In all events, hand lettered signs, flashing signs, moving signs, or credit card signs visible from the Common Areas are prohibited.

C. All signs installed by County shall be insured, and shall be maintained by County at all times in first class condition, operating order and repair. County shall commence to repair any of County's signs which have been damaged within five (5) days after such damage occurs. County shall perform such other maintenance to its signs and canopies as Landlord shall request. In the event County fails to repair any of its signs as specified above and in addition to Landlord's other rights and remedies for such Default, Landlord, shall have the right to make such repairs as Landlord deems necessary at County's sole cost and expense.

D. Upon vacating the Premises, County agrees to remove all exterior sign(s) and repair all damage caused by such removal, including but not limited to restoring the sign facia and/or exterior surface upon which the sign(s) are located to an attractive, neat condition.

E. If County shall erect, install or maintain any sign, lights, or other forms of inscription or advertising or display device outside, in or upon the Premises in violation of this Article and shall not immediately upon notice from Landlord cause the same to be removed or discontinued, or if County fails to remove its exterior sign(s) upon vacating the Premises, Landlord, in addition to any other rights or remedies to which it may be entitled hereunder or as a matter of law or in equity, may enter upon the Premises, without thereby causing an eviction of County from said premises or interference with County's right of quiet use and enjoyment thereof, and cause said sign, lights, or other form of inscription or advertising or display device to be removed or discontinued, and the costs of such removal or discontinuance shall be paid by County, as additional Rent, on the first day of the month following said removal or discontinuance.

SECTION 4.5. COUNTY'S USE OF ROOF. County shall not use the roof for any use, nor shall County make any penetrations in the roof, without Landlord's prior written consent. Landlord, at its sole cost and expense, may at any time relocate any of the equipment serving the Premises which is located on the roof of the Shopping Center.

SECTION 4.6. RETAIL RESTRICTION LIMIT. INTENTIONALLY DELETED.

SECTION 4.7. PROHIBITED USES. County covenants and agrees that:

A. County shall not commit or suffer to be committed any nuisance or other act or thing to be done in or about the Premises or the Shopping Center which will in any manner whatsoever unreasonably obstruct or interfere with the rights of other tenants or patrons of the Shopping Center or injure or annoy them; nor shall County allow the Premises to be used for any improper, immoral,

unlawful or other objectionable purposes;

B. County shall not use the Premises for the sale of any product which other tenants of the Shopping Center are given the exclusive right to sell or which compete with the primary use of another tenant then operating at the Shopping Center;

C. County shall not obstruct, encumber or use for any purpose, other than ingress or egress to and from the Premises, the Common Areas, or the entrances, vestibules, stairways or halls thereof, and shall not engage in or permit any selling, merchandising, display, advertising or soliciting anywhere within the Shopping Center outside of the Premises, unless the same shall be expressly permitted by this Lease;

D. County shall not install any exterior lighting or plumbing fixtures, shades or awning or any interior or exterior decorations, carpeting or other floor covering, or painting, or build any fence or enclosure or make any changes to any of County's storefront area or the interior or exterior appearances of the Premises without Landlord's prior written consent in its sole and absolute discretion. Absolutely no materials of any kind may be affixed to the exterior or interior surface of County's show windows. All advertising must be professionally made and displayed and have the approval of Landlord;

E. County will not permit the use of any portion of the Premises for solicitations, demonstrations or itinerant vending, or any activities inconsistent with reasonable standards of good shopping center practice;

F. County will not use the Premises for any of the following uses: bowling alley, skating rink, theater, amusement park or entertainment facility, night club, massage parlor or any facility which sells or displays obscene or pornographic materials or services, a facility which sells or repairs cars, boats, trailers, or mobile homes, flea market, carnival, meeting hall, banquet facility, thrift or second-hand shop, disco or dance hall, sporting event or sports facility, video or other game parlor, pool hall, billiard parlor, off-track betting facility, or auditorium. The parties acknowledge and agree that County and this Lease are subject to the provisions of that certain Shopping Center Lease, as it may be amended from time to time, between Landlord and Safeway, Inc., and, notwithstanding anything in this Lease to the contrary, County agrees not to commit or suffer to be committed any act or thing to be done in or about the Premises or the Shopping Center that violates or causes a violation of the provisions of the Shopping Center Lease referred to above;

G. Subject to the process set forth herein for non-appropriation of funds, County will not abandon or leave vacant any part of the Premises;

H. County will not permit any auction sale, fire sale, bankruptcy sale, going-out-of-business sale, or similar sale to be conducted in the Premises; and

I. County shall not subject fixtures, furnishings or equipment (other than trade fixtures or trade equipment) which are affixed to the realty to any mortgage, lien, conditional sales agreement, security interest or other encumbrance.

SECTION 4.8. AFFIRMATIVE COVENANTS. County covenants and agrees that:

A. The Premises, including County's show windows and signs, shall be kept neat, clean and in good order by County at County's expense, including necessary and periodic repainting and cleaning work as shall be reasonably necessary to maintain such Premises in first-class condition and in keeping with the general standards of maintenance and good appearance of the Shopping Center. County's show windows shall be used for display purposes only and no debris, disposal containers, material scraps, cartons, wrappings or other similar items shall be permitted in said windows;

B. County shall only conduct selling, merchandising, display, advertising or soliciting in connection with its business inside the Premises and only in a dignified manner and in conformity with the highest standards of practice obtaining among superior type stores, shops or concerns dealing in the same or similar merchandise. Any substantial adverse change in the quality of merchandise or services being offered by County at the Premises, without Landlord's prior written consent, may, at Landlord's option, be deemed a breach and violation of this Lease. The Landlord agrees that the display and sale of alcoholic beverages within the Premises consistent with the display and sale in substantially all of the County's other liquor stores shall not violate this paragraph;

C. County will maintain the Premises at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin, and other pests, will not burn or permit accumulations of garbage, trash, rubbish and other refuse (collectively "trash"). County shall maintain its trash within the Premises for pick-up by Landlord. County shall use containers designated or supplied by Landlord. County shall separate trash as required by Landlord. County shall pay within thirty (30) days of billing as additional Rent its share of costs associated with trash handling as determined by Landlord. Landlord's determination shall be final. Landlord shall have the right to change its procedures and method of charging for trash removal from time to time, and County agrees to abide by said procedures and method of charging; and

D. County will participate in exterminating programs that Landlord may establish pro-rated for the County's utilizing such services.

SECTION 4.9. COUNTY'S VIOLATION. INTENTIONALLY DELETED.

ARTICLE V

RENT

SECTION 5.1. RENT PAYABLE.

A. County shall pay the Rent to Landlord, without prior notice or demand therefore (except where such prior notice or demand is expressly provided in this Lease) and without diminution, counterclaim, offset or deduction whatsoever, at the rates and times set forth herein, at such place as provided in Section 1.1.K, or at such other place as Landlord may from time to time designate by written notice to County. Rent shall be deemed paid when actually received by Landlord. Rent payable on a monthly basis shall be prorated for any period less than a full calendar month.

B. Provided County shall have lost an opportunity to cure set forth herein, in addition to constituting a Default under the Lease, in the event any Rent, or installment thereof, is not paid within ten (10) calendar days after it is due then County shall also pay to Landlord, as additional Rent, a late payment fee equal to the greater of \$500.00 or five percent (5%) of such delinquent Rent for each and every month, or part thereof, thereafter that such Rent remains unpaid. Such payment shall be deemed liquidated damages and not a penalty, but shall not excuse the timely payment of Rent.

C. INTENTIONALLY DELETED.

D. Any payment by County of a lesser amount than that due hereunder shall be treated as a payment on account. In the event that any check for a lesser amount than that due bears an endorsement or statement, or is accompanied by a letter stating, that such lesser amount constitutes "payment in full" (or terms of similar import), Landlord's acceptance thereof shall not be an accord and satisfaction, and such statement shall be given no effect. Landlord may accept any such check without prejudice to any rights or remedies which Landlord may have against County. It is understood and agreed that, if the parties expressly agree in writing to settle a monetary dispute at a stipulated amount which may be less than that claimed by Landlord, such amount shall control.

E. The Rent reserved under this Lease shall be the total of all Minimum Rent, Percentage Rent and additional Rent, increased and adjusted as elsewhere herein provided, payable during the entire Term and, accordingly, the methods of payment provided for herein, namely, annual and monthly rental payments, are for convenience only and are made on account of the total Rent reserved hereunder.

SECTION 5.2. PAYMENT OF MINIMUM RENT. County shall pay to Landlord the Minimum Rent provided in Section 1.1.F in equal monthly installments, in advance, commencing on the Rent Commencement Date, and on the first day of each and every calendar month thereafter throughout the Term. An amount equal to the amount due for the first full calendar month of the Term shall be paid in advance upon County's execution of the Lease and credited toward the first due payment(s) of Minimum Rent.

SECTION 5.3. PAYMENT OF PERCENTAGE RENT. INTENTIONALLY DELETED.

SECTION 5.4. "GROSS SALES" DEFINED. INTENTIONALLY DELETED.

SECTION 5.5. STATEMENTS OF GROSS SALES. INTENTIONALLY DELETED.

SECTION 5.6. RECORDS AND AUDITS. INTENTIONALLY DELETED.

SECTION 5.7. TAXES.

A. The term "Taxes" means all governmental real estate taxes, fees, charges and assessments (including general, extraordinary or special assessments) concerning the Shopping Center, costs and fees incurred by Landlord in any tax contest, appeal and negotiation with the governmental authorities, and a fee for administering Taxes. "Taxes" include, but are not limited to, school, sewer, water and rent taxes, fees and charges.

B. No inheritance, estate, general income or profit tax that is or may be imposed upon Landlord personally shall be deemed to be included in "Taxes"; provided, however, that if at any time during the Term, by change in method of taxation or otherwise, there shall be levied, assessed or imposed in lieu of, in addition to or as a substitute for the whole or any part of the Taxes now levied, assessed or imposed on all or any part of the Shopping Center, (i) a tax, assessment, levy, imposition or charge based on the rents received therefrom, whether or not wholly or partially as a capital levy or otherwise, (ii) a tax or license fee measured by the rents received by Landlord from the Shopping Center or any portion thereof, (iii) a tax or license fee imposed upon Landlord which is otherwise measured by or based in whole or in part upon the Shopping Center or any portion thereof, or (iv) any other tax, levy, imposition, charge or license fee however described or imposed, then all such charges shall be computed as if the amount hereof so payable were the amount which would be due if the Shopping Center were the only property of Landlord subject thereto and included as Taxes for the purpose of computing the Tax Rent. If the Shopping Center is not contained fully on one separate tax parcel, Landlord shall determine Taxes applicable to the Shopping Center which determination shall be final.

SECTION 5.8. PAYMENT OF TAX RENT.

A. County's share of Taxes ("Tax Rent") for each Tax Year shall be computed by Landlord by multiplying the amount of the Taxes (less the Tax Rent paid by the Major Tenants) by a fraction ("County's Proportionate Share"), the numerator of which shall be the Floor Area of the Premises and the denominator of which shall be the average Floor Area of those tenants other than Major Tenants in occupancy and paying Minimum Rent on the first (1st) day of each month during the Tax Year or Partial Tax Year, as those terms are hereinafter defined.

B. Tax Rent shall be paid by County in equal monthly installments as are estimated by Landlord from time to time (the "Tax Estimates"), with the first installment being due on the Rent Commencement Date and each succeeding installment being due on the first day of each calendar month thereafter. Tax Estimates shall be calculated and paid such that Landlord is able to pay Taxes when billed by the governmental authority. Landlord shall send to County a statement (the "Tax Statement") setting forth the amount of the Tax Rent for the Tax Year in question and the aggregate amount of the Tax Estimates which have been paid by County for such period. In the event that the total of the Tax Estimates actually paid by County for any Tax Year or portion of a Tax Year is less than the amount of the Tax Rent for such period, County shall remit the difference to Landlord within ten (10) days after receipt of the Tax Statement. In the event that the total of the Tax Estimates actually paid by County for such Tax Year is in excess of the Tax Rent for such period, Landlord shall credit the difference toward the Tax Estimates payment(s) next due. Upon billing by Landlord, County shall pay Landlord its Tax Rent for the Tax Year in which the Rent Commencement Date occurs, covering the period from the Rent Commencement Date through the end of said Tax Year. If any tax payable by Landlord to which County has contributed is retroactively increased or decreased, County shall pay within ten (10) days or receive its proportionate share of the net increase or refund, as the case may be.

SECTION 5.9. "TAX YEAR" DEFINED. The term "Tax Year" means a twelve (12) month period established by Landlord as the year for purposes of computing Tax Rent. The Tax Year may or may not coincide with the period designated as the tax year by the taxing authorities having jurisdiction over the Shopping Center. The term "Partial Tax Year" shall mean a period less than twelve (12) months utilized by Landlord at the commencement and end of County's Term to incorporate County's Tax Rent within the Tax Year established by Landlord for the entire Shopping Center.

SECTION 5.10. TAXES ON COUNTY'S PERSONAL PROPERTY. County shall be responsible for the payment of any governmental tax, charge or fee concerning County's personal

property including, but not limited to, County's trade fixtures, Rent, inventory and its interest in this Lease. County shall pay all of the foregoing before it becomes delinquent. County shall deliver a duplicate receipt to Landlord within five (5) days after such payment of tax. If any taxing authority requires that any tax described in this Section 5.10. be paid by County but collected by Landlord and forwarded to such taxing authority, then the same shall be paid by County to Landlord at such times as such taxing authority shall require. Landlord may include estimates of the amounts due under this Section 5.10. in the Tax Estimates, but County shall pay the entire amount of any such taxes, charges or fees.

SECTION 5.11. RENT FOR A PARTIAL MONTH. For any portion of a calendar month included at the beginning or end of the Term, County shall pay in advance, at the beginning of such portion, 1/30th of each monthly installment of Rent (including, without limitation, Minimum Rent, Tax Rent, Tax Estimates, Operating Costs Estimates, and Marketing Fund Dues) for each day included in such portion.

ARTICLE VI

COMMON AREAS

SECTION 6.1. USE OF COMMON AREAS. During the Term County shall have a non-exclusive, revocable license to use the Common Areas for their intended purposes, such license being subject to the exclusive control and management of Landlord and the rights of Landlord and of other tenants. County agrees to comply with such rules and regulations as Landlord prescribes in its sole discretion from time to time regarding use of the Common Areas. County agrees it shall not use the Common Areas for any advertising, sales or display purposes, or for any other purpose which would impede or create hazardous conditions for the flow of pedestrian or other traffic, without Landlord's prior written consent. County agrees that the parking spaces, fire lanes and the lanes in the front of the Premises shall not be used for the loading or unloading of trucks except as permitted by Landlord. Trucks are to use such entrances, exits, and service lanes designated by Landlord. County further agrees that County and County's employees and staff shall only use the employee parking areas as may be designated by Landlord from time to time. County shall, upon five (5) days' written notice from Landlord, provide to Landlord a list of license numbers of all of County's and its employees' vehicles. In the event County or its employees fail to park their vehicles in designated parking areas, or in the event County undertakes or permits the delivery of merchandise or other items except as herein provided. Landlord shall have the right to tow such vehicles at County's expense.

SECTION 6.2. MANAGEMENT AND OPERATION OF COMMON AREAS. Landlord shall operate, repair, equip and maintain the Common Areas and Landlord shall have the exclusive right and authority to employ and discharge personnel with respect thereto. Without limiting the foregoing, Landlord may (i) utilize the Common Areas for promotions, exhibits, displays, advertising, food facilities and any other use which tends to attract customers to or benefits the Shopping Center; (ii) grant the right to conduct sales in the Common Areas; (iii) erect, remove and lease, kiosks, planters, pools, sculptures, buildings and other improvements within the Common Areas; (iv) enter into, modify and terminate easements and other agreements pertaining to the use and maintenance of the Shopping Center; (v) construct, maintain, operate, replace and remove lighting, other equipment, and signs on all or any part of the Common Areas; (vi) provide security for the Shopping Center; (vii) restrict parking in the Shopping Center; (viii) discourage non-customer parking; (ix) temporarily close all or any portion of the Shopping Center in connection with repairs or improvements or as may be necessary to prevent a dedication or accrual of any rights to any person or to the public; (x) temporarily suspend any and all services, facilities, and access by the public to all or any part of the Shopping Center at such times as the tenants occupying such part of the Shopping Center are not open for business, on legal holidays, on such other days as may be declared by local, state or Federal authorities as days of observance, or due to any event beyond the reasonable control of Landlord; and (xi) do and perform any other acts in and to the Common Areas and the Shopping Center as, in the exercise of its business judgment, Landlord shall deem advisable. Except as otherwise provided herein, County acknowledges that the Site Plan set forth on Exhibit "A" hereto is attached for reference purposes only and that Landlord expressly reserves the right, at any time in the future, (i) to expand, remodel, alter or modify the Shopping Center, including, without limitation, changing the shape, size, location, number and extent of the improvements located in the Shopping Center and (ii) to eliminate, in its sole discretion, existing improvements or construct new improvements in the future, and may change existing access to and from all improvements and on areas of the Shopping Center. Except as expressly otherwise granted to County herein, Landlord reserves the exclusive right to the Common Areas for all purposes.

SECTION 6.3. COUNTY'S PROPORTIONATE SHARE OF LANDLORD'S OPERATING COSTS.

A. County's share of Landlord's Operating Costs ("County's Proportionate Share of Landlord's Operating Costs") for each full or partial calendar year (or fiscal year selected by Landlord) (the "Operating Costs Year") during the Term shall be computed by Landlord by multiplying the amount of Landlord's Operating Costs (less contributions paid by Major Tenants toward Landlord's Operating Costs) by the fraction described in Section 5.8.A as "County's Proportionate Share."

B. County's Proportionate Share of Landlord's Operating Costs shall be paid by County in equal monthly installments (individually, each an "Operating Costs Estimate," collectively, the "Operating Costs Estimates") in such amounts as are estimated by Landlord from time to time during the Term. The first such installment shall be due on the Rent Commencement Date and each succeeding installment shall be due on the first day of each calendar month thereafter. Subsequent to the end of each Operating Costs Year, Landlord shall send to County a statement (the "Operating Costs Statement") setting forth the amount of County's Proportionate Share of Landlord's Operating Costs for the Operating Costs Year in question and the aggregate amount of the Operating Costs Estimates which have been paid by County. In the event the total of the Operating Costs Estimates actually paid are less than the amount of County's Proportionate Share of Landlord's Operating Costs for such period, County shall remit the difference to Landlord within ten (10) days after receipt of the Operating Costs Statement. In the event that the total of the Operating Costs Estimates actually paid by County for such Operating Costs Year are in excess of County's Proportionate Share of Landlord's Operating Costs for such period, Landlord shall credit the difference toward the Operating Costs Estimate payment(s) next due.

SECTION 6.4. "LANDLORD'S OPERATING COSTS" DEFINED.

A. "Landlord's Operating Costs" shall mean the costs and expenses associated with the operation, equipping, painting, maintenance and repair of the Shopping Center including, but not limited to, the costs and expenses of: (i) operating, equipping, maintaining, repairing, replacing, lighting, cleaning, striping, and removing snow, ice, garbage, trash and debris from, the parking areas of the Shopping Center; (ii) operating, maintaining, repairing and replacing ducts, conduits, fire protection systems, sprinkler systems, security alarm systems, roofs, storm and sanitary drainage systems and other utility systems, signs and markers, on and off-site traffic regulation and control signs and devices, and complying with all laws and regulations; (iii) all premiums, fees and other charges for insurance applicable to the Shopping Center, including self-insurance, rent insurance and deductibles; (iv) interior and exterior landscaping; (v) seasonal decorations; (vi) all replacement and improvements of or to the Common Areas and non-tenant areas including, without limitation, floors, parking areas and other facilities; (vii) machinery and equipment; (viii) all license and permit fees and any and all parking surcharges; (ix) music program services and loudspeaker systems; (x) expenses incurred in connection with trash removal, compaction and recycling; (xi) all costs and expenses relating to the employment of personnel, including, without limitation, the salaries, benefits and insurance costs of such personnel; (xii) all utility costs relating to the Common Areas; (xiii) costs incurred in complying with laws, ordinances, rules and regulations; (xiv) costs associated with a Marketing Fund for the Shopping Center established by Landlord (it being agreed that County's share of said Marketing Fund shall be an amount equal to \$1.00 multiplied by the square footage of the Premises and increasing annually by five percent (5%)); and (xv) Landlord's administrative charge in an amount equal to twenty percent (20%) of the total of all other Landlord's Operating Costs. Operating Costs that overlap the Shopping Center and other property shall be allocated as determined by Landlord in a commercially reasonable manner. If any of the foregoing involve an expense which is properly deemed capital in accordance with generally accepted accounting principles, Landlord shall have the option to capitalize and write-off such expense over any period of time permitted by such principles or the U.S. Internal Revenue Code, and, in such event, that portion so attributable to a given Lease Year shall be included in Operating Costs for such Lease Year.

B. In the event County's Proportionate Share of Landlord's Operating Costs (exclusive of Operating Costs for snow removal, insurance and utilities) increases by more than ten percent (10%) in any Lease Year, County, but no agent or representative of County, may audit Landlord's Operating Costs provided that: (i) Landlord shall be notified within thirty (30) days of County's receipt of Landlord's annual statement of County's intent to audit and the audit shall cover only the year covered by Landlord's statement; (ii) the audit shall be completed within ten (10) days of commencement; and (iii) such audit shall be conducted only during Landlord's normal business

hours and at the normal place where Landlord maintains Landlord's records of Operating Costs and only after County has given Landlord thirty (30) days notice of County's intent to audit. Before conducting any audit, County shall pay the full amount of the Operating Costs as billed and County shall not be in Default of any other provision of this Lease. County may inspect only those records of Landlord that are specifically related to Operating Costs. County shall furnish Landlord a copy of the audit upon completion. All information gained by County during such audit shall be kept private and confidential. No audit of any period shall be conducted if any other tenant has conducted an audit for such period and Landlord furnishes County a copy of the results of such audit. No subtenant shall have any right to conduct an audit and no assignee shall have any right to conduct an audit of any period prior to the effective date of assignment. In no event shall Landlord be required to submit to an audit if such audit is to be conducted by a person, firm or entity whose fee is based, in whole or in part, on the results of the audit.

ARTICLE VII

UTILITIES

SECTION 7.1. UTILITY CHARGES.

A. County shall apply for, obtain, be separately metered and solely responsible for and pay all charges associated with, as and when the same become due and payable, water, sewer, electricity, gas, heat, steam, hot and/or chilled water, air-conditioning, ventilation, lighting systems, telephone service and other utilities (including meters, hook-up fees, tap fees and other charges) supplied to the Premises (the "Utility Charges"). If any such utilities are not separately metered or assessed, then in addition to County's payment of separately metered charges, County shall pay to Landlord a proportionate share of charges for such non-separately metered utilities. County's proportionate share of the charges for non-separately metered utilities shall be calculated by multiplying the Utility Charges for such utilities by a fraction, the numerator of which shall be the Floor Area of the Premises and the denominator of which shall be the Floor Area of tenants using such utilities. If any charge for any utility service supplied to the Premises is not paid by County to the utility provider when due, Landlord, at its option, may pay such charge for and on behalf of County and any amount so paid by Landlord shall be immediately due from County to Landlord as additional Rent.

B. At any time, and from time to time, Landlord may, at Landlord's option, install or require County to install submeters in connection with the utility services furnished to the Premises. In the event that Landlord exercises its option, Landlord may collect and County shall pay as additional Rent all or any part of the Utility Charges on the first day of each calendar month.

SECTION 7.2. DISCONTINUANCE AND INTERRUPTION OF SERVICE. Landlord shall not be liable to County in damages or otherwise for the quality, quantity, failure, unavailability or disruption of any utility service and the same shall not constitute a termination of this Lease, constitute an actual or constructive eviction of County, or entitle County to an abatement of Rent.

SECTION 7.3. LANDLORD'S RIGHT TO ALTER UTILITIES. Without interfering with the operation of the County's business, Landlord reserves and shall at all times have the right to alter any and all utilities, and the equipment relating thereto, serving the Shopping Center. County shall execute and deliver to Landlord without delay such documentation as may be required to effect such alteration.

ARTICLE VIII

INDEMNITY AND INSURANCE

SECTION 8.1. (a) COUNTY INDEMNITY. The County shall indemnify and hold Landlord, its partners, members, employees, shareholders and Mortgagees harmless from any claims or damages arising out of County's use of the Premises or Shopping Center, breach of this Lease, or negligence or willful misconduct of County, its employees, agents or contractors. This indemnification is limited by the notice requirements and damage caps stated in the Local Government Tort Claims Act, Md. Ann. Code Cts. & Jud. Proc. Sec. 5-301, et seq. (2002 Repl. Vol.), as amended from time to time.

(b) LANDLORD INDEMNITY. Landlord shall indemnify and hold harmless County from

and against any claims or damages arising out of Landlord's use of the Common Areas to the extent caused by the negligence or willful misconduct of Landlord.

SECTION 8.2. LANDLORD NOT RESPONSIBLE FOR ACTS OF OTHERS. Except as may be caused by Landlord's negligence or willful misconduct to, the maximum extent permitted by law, the Indemnitees shall not be liable for, and County waives all claims for, loss or damage to County's business or injury or damage to person or property sustained by County, or any person claiming by, through or under County, resulting from any accident or occurrence in, on, or about the Premises or the building of which it is a part, or any other part of the Shopping Center, including, without limitation, claims for loss, theft, injury or damage resulting from: (i) any equipment or appurtenances becoming out of repair; (ii) wind or weather; (iii) any defect in or failure to operate any sprinkler, HVAC equipment, electric wiring, gas, water or steam pipe, stair, railing or walk; (iv) broken glass; (v) the backing up of any sewer pipe or downspout; (vi) the escape of steam or water; (vii) water, snow or ice being upon the Shopping Center or coming into the Premises; (viii) the falling of any fixture, plaster, tile, stucco or other material; (ix) any act, omission or negligence of other tenants, licensees or any other persons, or occupants of the Shopping Center or adjoining or contiguous buildings, owners of adjacent or contiguous property, or the public, or (x) any other cause of any nature. To the maximum extent permitted by law, County agrees to use the Premises and the Common Areas at County's own risk.

SECTION 8.3. COUNTY'S INSURANCE.

A. County shall have the right to self-insure. The County is a member of the Montgomery County Self-Insurance Program; Article 20-37 of Montgomery County Code restricts the legal defense fund to members of the Fund such as the County and does not allow for outside entities. The certificate of insurance evidences limits of insurability for commercial general liability coverage in the amounts of \$500,000 in the aggregate and \$200,000 each occurrence and \$20,000 per person, \$40,000 per accident for bodily injury and \$10,000 for property damage for automobile liability and State of Maryland statutory limits for workers' compensation. These are the maximum limits of liability for which the Montgomery County Self-Insurance Program is responsible under the Local Government Tort Claims Act, Md. Code Ann. Cts & Jud. Process § 5-301 et seq, (1998 Repl. Vol.), as amended from time to time (the "LGTC"). This insurance policy must be maintained continuously by the County during the full Term and during any extension of the Lease Term. The County shall deliver to Landlord a certificate of insurance evidencing the coverage above described within fifteen (15) days after the execution of this Lease.

B. **PROHIBITED ARTICLES:** County agrees that it will not keep in or upon the Premises any article, which may be prohibited by the standard form of fire or hazard insurance policy. In the event the County's use or occupancy of the Premises causes any increase in the insurance premiums for the Premises causes any increase in the insurance premiums for the Premises or any part thereof, the County shall pay the additional premiums as they become due. The County has the right to review the Landlord's policy(ies) premium and rates.

C. **COUNTY RISK:** All the furnishings, fixtures, equipment, effects and property of every kind, nature and description belonging to the County or to any person claiming by, through or under the County, which during the continuance of this Lease or any occupancy of the Premises by the County or anyone claiming under the County, shall be at the sole risk of the County, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or busting of water pipes, steam pipes, or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord unless due to the negligence of Landlord or Landlord's failure to comply with the law or with its obligations hereunder.

D. **GLASS PANE REPLACEMENT:** The County, at the County's sole cost and expense, agrees to promptly replace any window or door glass pane that is broken, chipped or cracked after the Delivery Date, except those resulting from structural failure or Landlord's act or omission. Should the County fail to effect a replacement within a reasonable period of time, Landlord may perform this work and the County shall reimburse Landlord for the cost thereof, as Additional Rent.

SECTION 8.4. COUNTY'S CONTRACTOR'S INSURANCE. Prior to the Term Commencement Date, County or its contractors shall obtain and maintain throughout the completion of County's Work and during the period of any repairs, renovations or other work, at its expense, in addition to worker's compensation insurance as required by the jurisdiction in which the Shopping Center is located, builder's risk insurance in the amount of the replacement cost of County's Property and Leasehold Improvements and comprehensive general liability insurance

(including, without limitation, contractor's liability coverage, contractual liability coverage, completed operations coverage, a broad form property damage endorsement and a contractor's protective liability endorsement) providing on an occurrence basis a minimum combined single limit of \$1,000,000.00.

SECTION 8.5. POLICY REQUIREMENTS. See Self-Insurance provision in Section 8.3 above.

SECTION 8.6. INCREASE IN INSURANCE PREMIUMS. See Self-Insurance provision in Section 8.3 above.

SECTION 8.7. WAIVER OF RIGHT OF RECOVERY. INTENTIONALLY DELETED.

ARTICLE IX

CONSTRUCTION AND ALTERATIONS

SECTION 9.1. CONDITION OF PREMISES. By taking possession of the Premises, County acknowledges that it has: (i) inspected the Premises and found such Premises to be satisfactory; (ii) accepted the Premises, and all improvements, betterments and equipment "AS IS," with no representation or warranty by Landlord as to the condition or suitability of the Premises or of the Shopping Center for County's purpose; and (iii) agreed that Landlord has no obligation to improve or repair the Premises, or the Shopping Center, unless said obligation is specifically set forth in this Lease.

SECTION 9.2. COUNTY IMPROVEMENTS. Landlord and County agree to provide all improvements to the Premises in accordance with their obligations set forth in Exhibit "B". County specifically agrees that it shall utilize only modern and all new materials in the Premises, and that it will have the Premises fully constructed and fixtured on the Rent Commencement Date as set forth in Section 1.1(D). Landlord shall have sole and absolute discretion to approve the location, placement, installation and removal method of any and all of County's cables and equipment located in or upon the Shopping Center, including the Premises.

SECTION 9.3. ALTERATIONS. County shall not make or cause to be made any alterations, renovations, improvements or other installations in and to the interior of the Premises or any part thereof without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. In no event shall County make any changes to the exterior of the Premises or that affect the structure of the Shopping Center or Premises.

SECTION 9.4. WORK REQUIREMENTS. All work performed by County in the Premises shall be performed (i) promptly, at County's sole cost and expense, and in a workmanlike manner with new materials; (ii) by duly qualified or licensed persons; (iii) without interference with, or disruption to, the operations of Landlord or other tenants or occupants of the Shopping Center; and (iv) in accordance with plans and specifications approved in writing in advance by Landlord (as to both design and materials) which approval to non-structural items shall not be unreasonably withheld provided that the same are consistent with the County's Muddy Branch Road store and pursuant to Exhibit "B" and all governmental codes, permits, rules and regulations.

SECTION 9.5. OWNERSHIP OF IMPROVEMENTS. All present and future alterations, additions or improvements made to the Premises including exterior signage and the HVAC system (the "Leasehold Improvements") shall be deemed to be the property of Landlord and upon County's vacation or abandonment of the Premises, unless Landlord directs otherwise, shall remain upon and be surrendered with the Premises in good order, condition and repair. All movable goods, inventory, office furniture, trade fixtures and other movable personal property belonging to County which are installed, stored, or kept in the Premises by County and are not permanently affixed to the Premises, shall remain County's property ("County's Property") and shall be removable by County at the end of the Term provided that: (i) County is not in Default under this Lease; and (ii) County shall repair any damage to the Premises or the Shopping Center caused by the removal of any of County's Property.

SECTION 9.6. REMOVAL OF COUNTY'S PROPERTY. County shall remove all County's Property prior to the Termination Date or the termination of County's right to possession. County, at its sole cost and expense, shall repair any damage to the remaining Leasehold Improvements, the

Premises, or any other portion of the Shopping Center caused by such removal. If County fails to so remove said items then, at Landlord's option, they shall be considered as abandoned and shall become the property of Landlord, or Landlord may have them removed and disposed of at County's sole cost and expense.

SECTION 9.7. MECHANIC'S LIENS. No mechanic's or other lien shall be allowed against the Shopping Center as a result of County's Work or improvements to the Premises. County shall promptly pay all persons furnishing labor, materials or services with respect to any work performed by County on the Premises. If any mechanic's or other lien shall be filed against the Premises or the Shopping Center by reason of work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to or for the benefit of County, County shall cause the same to be discharged of record or bonded to the satisfaction of Landlord within thirty (30) days subsequent to the filing thereof. If County fails to discharge or bond any such lien, Landlord, in addition to all other rights or remedies provided in this Lease, may bond said lien or claim (or pay off said lien or claim if it cannot with reasonable effort be bonded) without inquiring into the validity thereof and all expenses incurred by Landlord in so discharging said lien, shall be paid by County to Landlord as additional Rent on thirty (30) days' demand.

SECTION 9.8. CHANGES TO SHOPPING CENTER.

A. Exhibit "A" sets forth the general layout of the Shopping Center. Exhibit "A" is not and shall not be deemed Landlord's representation or agreement that all or any part of the Shopping Center, will be, or will continue to be, configured as indicated therein. Landlord reserves the right to determine all tenancies in the Shopping Center, and County does not rely on, nor does Landlord represent, the tenancy of any specific tenant.

B. Landlord shall have the right, at any time, to (i) make changes to the design, make alterations or additions to, move or remove improvements on, or demolish all or any part of, the Shopping Center; (ii) build other buildings or improvements in or about the Shopping Center; and (iii) convey to others or withdraw portions of the Shopping Center.

C. In the event that Landlord renovates or remodels the exterior of the Premises or the Shopping Center, County agrees at its sole risk and expense to: (i) upon request of Landlord, remove its then existing signage to facilitate the remodeling work; (ii) upon direction of Landlord, re-install signage as is appropriate under the new criteria and consistent with such exterior remodeling; (iii) replace County's storefront if such replacements are part of Landlord's renovation plans and (iv) otherwise cooperate with Landlord to facilitate such renovation and remodeling. County consents to the performance of all work deemed appropriate by Landlord to accomplish any of the foregoing, and to any inconvenience caused thereby. In the event Landlord renovates or remodels the exterior of the Premises or the Shopping Center within the first five (5) years of the Lease Term, Landlord shall be responsible for such expense.

ARTICLE X

REPAIRS, MAINTENANCE, AND LANDLORD'S ACCESS

SECTION 10.1. REPAIRS BY LANDLORD. Subject to the terms of this Lease, Landlord shall make all repairs to the Common Areas, and structural repairs to the Premises and to the buildings composing the Shopping Center (excluding, however, any repairs County or any other tenant is obligated to undertake). In the event any such repairs are necessitated by any act or negligence of County, its agents, employees, assigns, concessionaires, contractors or invitees, County shall reimburse to Landlord as additional Rent the cost incurred in completing such repairs.

SECTION 10.2. REPAIRS AND MAINTENANCE BY COUNTY.

A. County shall throughout the Term, at its sole cost and expense, maintain the Premises and every part thereof, the Leasehold Improvements, the storefront, and County's property in good order and repair, clean, sanitary and safe, and better quality. County shall not cause or permit any waste, damage or injury to the Premises or the Shopping Center.

B. County's obligations shall include, without limitation, repairing, maintaining, and making replacements to items such as the following located within or serving the Premises: floors and floor coverings; walls (other than structural walls) and wall coverings; ceilings; utility meters; pipes and conduits; fixtures; subject to Section 4.5., HVAC equipment and systems which serve the

Premises; plumbing, electrical and other mechanical systems serving the Premises; sprinkler equipment and other equipment within the Premises; the store front(s); all County's signs; security grilles or similar enclosures; locks and closing devices; window sashes, casements and frames; glass; doors and door frames. County agrees to maintain with a reputable contractor a regular service and maintenance contract on the HVAC equipment and systems servicing the Premises, with routine inspections and servicing as recommended by the HVAC manufacturer.

C. County, at its sole cost and expense, shall install and maintain fire extinguishers and other fire protection devices as may be recommended by Landlord's personnel or required by any agency having jurisdiction over, or by the underwriters issuing insurance for, the Shopping Center. County, at its sole cost and expense, agrees to routine inspections of fire protection devices by contractors acceptable to Landlord. If any bureau, department, or official of the Federal, state or local government of the jurisdiction in which the Shopping Center is located requires or recommends the installation, modification, or alteration of the sprinkler system, or other equipment, by reason of County's business, or the location of any partitions, trade fixtures, or other contents of the Premises, or for any other reason, or if any such sprinkler system or change thereof becomes necessary to prevent the imposition of any penalty or charge against the full allowance for a sprinkler system in fire insurance rates for the Shopping Center, then County, at County's sole cost and expense, shall promptly install such sprinkler system or changes therein.

D. County shall keep the service areas, sidewalks, and loading areas, if any, adjoining the Premises free from ice and snow and shall not permit the accumulation of garbage, trash or other waste in or around the Premises.

SECTION 10.3. INSPECTIONS, ACCESS AND EMERGENCY REPAIRS BY LANDLORD. County shall permit Landlord to enter all parts of the Premises during the Store Hours to inspect the same. In the event of an emergency, Landlord may enter the Premises at any time and make such inspection and repairs as Landlord deems necessary, at the risk and for the account of County. No such entry by Landlord shall be deemed an eviction of County in whole or part. During the last six (6) months of the Term, Landlord may exhibit "To Let" (or similar) signs within the storefront of the Premises. Landlord shall have the right to enter upon the Premises for purposes of showing the Premises to prospective tenants during the last twelve (12) months of the Term.

ARTICLE XI

CASUALTY

SECTION 11.1. FIRE OR OTHER CASUALTY. County shall give prompt notice to Landlord in case of fire or other casualty ("Casualty") to the Premises.

SECTION 11.2. RIGHT TO TERMINATE.

A. If (i) the buildings (taken in the aggregate) in the Shopping Center shall be damaged to the extent of more than twenty-five percent (25%) of the cost of replacement thereof; or (ii) the Premises shall be damaged in whole or in part during the last three years of the Term; or (iii) either or both of the Premises or the building in which the Premises is located shall be damaged to the extent of twenty-five percent (25%) or more of the cost of replacement thereof; or (iv) any or all of the buildings or Common Areas of the Shopping Center are damaged to the extent of twenty-five percent (25%) or more of the replacement cost thereof; then, in any such event, Landlord may terminate this Lease by notice to County. If Landlord terminates this Lease then the Termination Date shall be the date set forth in the notice to County. The "cost of replacement" shall be determined by the company or companies insuring Landlord against the Casualty in question, or if there shall be no such determination, by a person selected by Landlord qualified to determine such "cost of replacement." In the event that the Premises are damaged or destroyed during the last two (2) years of the Term to the extent of twenty-five percent (25%) or more of the replacement cost thereof, County may terminate this Lease by notice to Landlord prior to the ninetieth (90th) day following the date that the damage occurred.

Additionally, in the event that the Premises are damaged or destroyed at any time during the Term to the extent of twenty-five percent (25%) or more of the replacement cost thereof, and Landlord repair/restoration work is required prior to the commencement of any County repair/restoration work, and Landlord does not commence said Landlord repair/restoration work within two hundred seventy (270) days following the date of such damage/destruction, County may terminate this Lease by written notice to Landlord prior to the thirtieth (30th) day following the

occurrence of such two hundred seventieth (270th) day.

B. If the Casualty shall render the Premises untenantable, in whole or in part, and provided that the Casualty or the occurrence causing the untenability of the Premises is not caused by County, its agents, assignees, concessionaires, employees, contractors, or invitees, Minimum Rent shall abate proportionately during the period of such untenability, computed on the basis of the ratio which the amount of Floor Area of the Premises rendered untenantable bears to the total Floor Area of the Premises. Such abatement of Rent shall terminate on the earlier of (i) the date any such repair and restoration work is substantially completed by Landlord pursuant to its obligations under Section 11.3., or thirty (30) days after such date in the event County is required to perform repair work pursuant to Section 11.4., or (ii) the date County reopens for business in the portion of the Premises previously rendered untenantable. Except to the extent specifically set forth in this Section 11.2., neither the Rent nor any other obligations of County under this Lease shall be affected by any Casualty, and County hereby specifically waives all other rights it might otherwise have under law or by statute.

SECTION 11.3. LANDLORD'S DUTY TO RECONSTRUCT. Provided this Lease is not terminated pursuant to any provision hereof, and subject to Landlord's ability to obtain the necessary permits and the availability of insurance proceeds, Landlord shall repair or reconstruct the Premises in accordance with Section 10.1., to a substantially similar condition as existed prior to the Casualty; provided, however, that in no event shall Landlord be required to expend an amount in excess of the insurance proceeds in performing such repairs or reconstruction.

SECTION 11.4. COUNTY'S DUTY TO RECONSTRUCT. Provided this Lease is not terminated, County shall, pursuant to plans and specifications approved by Landlord in accordance with Section 9.4 hereof, promptly commence and diligently pursue to completion (i) the repair of the Premises, in accordance with Section 10.2., and (ii) the redecorating and refixturing of the Premises to a substantially similar condition as existed prior to the Casualty. County shall reopen for business in the Premises as soon as possible after the occurrence of the Casualty.

SECTION 11.5. DEMOLITION FOR PURPOSES OF RECONSTRUCTION. If the building in which the Premises is located shall be so damaged by a Casualty or so adversely affected by some other occurrence that it is necessary, in Landlord's judgment, to demolish such building for the purpose of reconstruction, and if Landlord does not elect to terminate this Lease as provided in Section 11.2, Landlord may demolish the same, in which event the Rent shall be abated to the same extent and according to the same terms as if the Premises were rendered untenantable by a Casualty, and the terms of Sections 11.2., 11.3. and 11.4. shall be applicable in the event of such demolition.

ARTICLE XII

CONDEMNATION

SECTION 12.1. TAKING OF PREMISES.

A. If any portion of the Floor Area of the Premises shall be appropriated or taken under the power of eminent domain by any authority, or conveyance shall be made in anticipation or in lieu thereof (each being hereinafter referred to as a "Taking"), either party shall have the right to terminate this Lease as of the effective date of the Taking by giving notice to the other party of such election within thirty (30) days prior to such date.

B. If there is a Taking of a portion of the Premises and this Lease shall not be terminated pursuant to Section 12.1.A, then (i) as of the effective date of the Taking, this Lease shall terminate only with respect to the portion taken; (ii) after the effective date of the Taking and during the balance of the Term the Minimum Rent shall be reduced by multiplying the same by a fraction, the numerator of which shall be the Floor Area so taken and the denominator of which shall be the Floor Area of the Premises immediately prior to the Taking; (iii) as soon as reasonably possible after the effective date of the Taking, Landlord shall, at its expense and to the extent feasible, restore the remaining portion of the structure of the Premises to a complete unit of a similar condition as existed prior to any work performed by County and including the work Landlord is required to perform, if any, as set forth in Exhibit "B"; provided, however, that Landlord shall not be required to expend more on such alteration or restoration work than the condemnation award actually received and retained by Landlord for the Premises. Provided this Lease is not terminated, County shall, pursuant to plans and specifications approved by Landlord in its sole and absolute

discretion, promptly commence and diligently pursue to completion (i) the repair of the Premises, in accordance with Section 10.2., and (ii) the redecorating and refixturing of the Premises to a substantially similar condition as existed prior to the Taking. County shall reopen for business in the Premises as soon as possible after the occurrence of the Taking.

SECTION 12.2. TAKING OF SHOPPING CENTER. If there is a taking of any portion of the Shopping Center so as to render, in Landlord's sole and absolute judgment, the remainder unsuitable for use as a shopping center, Landlord shall have the right to terminate this Lease upon thirty (30) days' written notice to County. If, (a) a Taking occurs, and (b) Landlord determines that the remaining portion is no longer suitable for operation as an Shopping Center, but nonetheless does not terminate County's Lease, then, Landlord shall inform County of its determination and County shall have a period of thirty (30) days during which County may terminate this Lease by providing sixty (60) days' written notice to Landlord.

SECTION 12.3. CONDEMNATION AWARD. All compensation awarded for a Taking of any part of the Premises (including, without limitation, the Leasehold Improvements) or a Taking of any other part of the Shopping Center shall belong to and be the property of Landlord, except the County may make claim for County Improvements. County hereby assigns to Landlord all of its right, title and interest in any such award. County shall have the right to collect and pursue any separate award as may be available under local procedure for moving expenses or County's Property, so long as such award does not reduce the award otherwise belonging to Landlord as aforesaid.

ARTICLE XIII

MARKETING FUND

SECTION 13.1. MARKETING FUND. INTENTIONALLY DELETED.

ARTICLE XIV

SUBORDINATION AND ATTORNMENT

SECTION 14.1. SUBORDINATION. This Lease shall, at all times, be subject and subordinate to the lien of any underlying lease, mortgage or deed of trust now or hereafter placed against the Premises to secure a bona fide loan or loans. At the request of Landlord any mortgagee or beneficiary under any deed of trust ("Mortgagee") against the Premises, the County shall within twenty (20) days after written notice by the Landlord execute such reasonably acceptable instrument or instruments as may reasonably be required to cause the lien of this Lease to be superior or inferior to the lien of such mortgage or deed of trust.

SECTION 14.2. ATTORNMENT. If any person shall succeed to all or part of Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease or otherwise, County shall, without charge, attorn to such successor-in-interest upon written request.

SECTION 14.3. ESTOPPEL CERTIFICATE. The County agrees that upon not less than twenty (20) days' written notice by Landlord, to execute, acknowledge, and deliver to Landlord a statement in writing: (i) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications the nature of same); (ii) stating the dates to which the Minimum Rent and additional Rent have been paid by the County; (iii) stating whether or not to the best knowledge of the County, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the County may have knowledge; (iv) stating the address to which notice to the County should be sent; and (v) and such other information concerning the Lease any mortgagee or prospective purchaser may reasonably require. Any such statement delivered pursuant hereto may be relied upon by an owner of the Shopping Center, any prospective purchaser of the Shopping Center, any mortgagee or prospective mortgagee of the Shopping Center, or of Landlord's interest therein, or any prospective assignee of any such mortgage. The County shall also, under the same terms and conditions execute an acknowledgment of Subordination and Attornment, at Landlord's request.

SECTION 14.4. QUIET ENJOYMENT. Landlord covenants that County, upon performing all of County's obligations under this Lease, shall peaceably and quietly have, hold and enjoy the Premises during the Term without hindrance, ejection or molestation by any person lawfully

claiming by, through or under Landlord, subject, however, to the terms and conditions of this Lease and all Mortgages, encumbrances, easements, and matters of record to which this Lease is or may become subject.

ARTICLE XV

ASSIGNMENT AND SUBLETTING

SECTION 15.1. LANDLORD'S CONSENT REQUIRED.

A. Except as set forth below in Sections 15(E) and (F), neither County, nor any of its permitted successors or assigns, shall: (i) transfer, assign, mortgage, encumber, or, by operation of law or otherwise, pledge, hypothecate, or assign all or any of its interest in this Lease, or (ii) sublet or permit the Premises, or any part thereof, to be used by others, including, but not by way of limitation, concessionaires or licensees of County, or (iii) sell, assign, hypothecate or otherwise transfer, by operation of law or otherwise, the outstanding voting stock of County (or partnership shares if County is a partnership) or any other ownership interests of County so as to result in or make possible a change in the present control of County, or (iv) sell, assign or otherwise transfer, by operation of law or otherwise, all or substantially all of County's assets; without the prior written consent of Landlord, in each instance, which consent Landlord may withhold in its sole and absolute discretion. All of the foregoing transactions shall be referred to as a "Transfer", and the person to whom County's interest is transferred shall be referred to as a "Transferee."

B. Any Transfer without Landlord's consent shall not be binding upon Landlord, and shall confer no rights upon any third person. Each such unpermitted Transfer shall, without notice or grace period of any kind, constitute a Default by County under this Lease. The acceptance by Landlord of the payment of Rent following any Transfer prohibited by this Article XV shall not be deemed to be a consent by Landlord to any such Transfer, an acceptance of the Transferee as a tenant, a release of County from the performance of any covenants herein contained, or a waiver by Landlord of any remedy of Landlord under this Lease, although amounts actually received shall be credited by Landlord against County's Rent obligations. Consent by Landlord to any one Transfer shall not constitute a waiver of the requirement for consent to any other Transfer. No reference in this Lease to assignees, concessionaires, subtenants or licensees shall be deemed to be a consent by Landlord to the occupancy of the Premises by any such assignee, concessionaire, subtenant or licensee.

C. It shall be a condition to any request for consent by Landlord to any such proposed transfer, assignment, subletting, licensing or concession agreement, change of ownership or hypothecation of this Lease or County's interest in and to the Premises, that County shall accompany such request with a certified check (or such other form of payment that Landlord may approve) in the amount of \$2,500.00 to reimburse Landlord for administrative and/or legal expense for the review and/or preparation of necessary documents.

D. If the Rent required to be paid arising from any assignment, subletting, licensing or concession agreement, exceeds the Rent reserved hereunder, then County shall pay to Landlord, on demand, the entire amount of such excess, which shall be deemed additional Rent.

E. Assignment: Modifying the provisions of this Article 15 of the Lease, provided County is not in default of any of the terms, covenants or conditions of this Lease beyond any applicable cure period herein provided, Landlord agrees that County shall have the right, with Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed, to assign the Lease to another full service liquor store recognized in the Washington, D.C. Metropolitan Area; provided the following conditions are met:

- i. Landlord shall be provided with at least ninety (90) days written notice prior to any proposed assignment together with a copy thereof and such written information as may be appropriate to verify fulfillment of the requirements specified in subparagraphs (ii) through (x) hereof;
- ii. County shall remain primarily liable under this Lease;
- iii. Any proposed assignee shall assume, in written instrument reasonably acceptable to Landlord, all of the obligations of County hereunder;

- iv. The tangible net worth of the proposed assignee shall be acceptable to Landlord;
- v. The proposed assignee has then, in Landlord's reasonable judgment, an ability to operate a first-class liquor store, and such proposed assignee will operate such business at the Premises consistent with the standards of the Shopping Center;
- vi. The business reputation of the proposed assignee must be satisfactory to Landlord in its business judgment;
- vii. The managerial and operational skills of the proposed assignee must be satisfactory to Landlord in its reasonable judgment;
- viii. Such proposed assignee shall continue to operate the business as a retail liquor store; and
- ix. On the effective date of the assignment, County's proposed assignee shall be a strong regional liquor store which operates at least fifteen (15) locations in the Washington, D.C. area.

Landlord shall, within ninety (90) days after receipt of such notice from County, elect in writing to County to either (a) terminate this Lease, thereby releasing County from future obligations under this Lease, or (b) permit County to transfer the Lease to the proposed transferee.

F. The prohibition on Transfers set forth above shall not apply in the event County is simultaneously transferring seventy-five percent (75%) or more of the County's other then existing Department of Liquor Control store operations to the same assignee and such assignee meets the following criteria:

- i. Such Transferee assumes each and every provision of this Lease in writing; and
- ii. Such Transferee has a net worth of Five Million Dollars (\$5,000,000.00) or more.

G. Notwithstanding anything set forth in the Lease to the contrary, in the event of a privatization of liquor stores in Montgomery County, Maryland, County shall have the one (1) time right, upon sixty (60) days prior written notice to Landlord, to assign the Lease, subject to the assumption of each and every provision hereof by such assignee in a writing acceptable to Landlord, to an assignee who: (a) (i) maintains a minimum tangible net worth of two million dollars (\$2,000,000.00), or (ii) shall post as Lease security with Landlord a letter of credit on terms consistent with Landlord's standard form in an amount equal to one (1) year's Minimum Rent; (b) has the ability to operate a first-class liquor store at the Shopping Center; (c) has not entered into and defaulted under any other agreement with Landlord or its affiliates; and (d) will continue to operate the Premises in accordance with the Lease. If County proposes an assignee meeting the foregoing criteria, Landlord's consent shall not be required; provided, however, that if County proposes an assignee not meeting the foregoing requirements, Landlord shall have the right to terminate the Lease upon not less than twenty (20) days' prior notice to County. Notwithstanding the immediately preceding sentence to the contrary, if County proposes an unqualified assignee to Landlord and Landlord elects to terminate the Lease, County shall have the right, by written notice to Landlord within ten (10) days of Landlord's termination notice, to either (i) withdraw such request, or (ii) replace the proposed assignee with a replacement that is otherwise qualified.

ARTICLE XVI

DEFAULT AND REMEDIES

SECTION 16.1. DEFAULT.

A. **Events of Default.** Each of the following shall constitute an "Event of Default": (i) County fails to pay Rent when due hereunder, and the same continues for ten (10) days after written notice from Landlord; provided that, solely in cases where this Lease has been assigned under an approved assignment to a non-governmental entity, no such notice shall be required if at least two (2) such notices shall have been given during the same Lease Year, in which case a ten

(10) day grace period from the due date shall apply; and/or (ii) County fails to observe or perform any other term, condition or covenant herein binding upon or obligating County within twenty (20) days after notice from Landlord specifying the failure (or, in the case of any such failure which cannot with due diligence be cured within twenty (20) days, within such additional period, if any, as may be reasonably required by County to cure such failure with due diligence; provided, however, that Landlord and County specifically agree that any such twenty (20) day period shall be returned to five (5) days with respect to a violation of Section 4.4.

B. Upon the occurrence of any event described in Section 16.1.A, Landlord shall have all the rights and remedies hereinafter provided in this Article XVI, in addition to all other remedies available under the Lease or provided at law or in equity.

SECTION 16.2. DAMAGES.

In the event of any such Default by County, then in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of County hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from County, subject to appropriations:

(A) Any unpaid Rent which had been earned at the time of such termination; plus

(B) The unpaid Rent which would have been earned after termination until the time of award; plus

(C) The unpaid Rent for the balance of the Lease Term after the time of award discounted to present value using the discount rate of the Federal Reserve Bank of Chicago at the time of award; plus

(D) Any other amount necessary to compensate Landlord for all the detriment proximately caused by County's failure to perform its obligations under this Lease (including the costs and disbursements of recovering the Premises and reasonable attorneys' fees) or which in the ordinary course of events would be likely to result therefrom; plus

(E) Interest, late fees and any other sums provided for in this Lease; plus

(F) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

SECTION 16.3. COMPUTATION. All Rent and additional Rent, other than the Minimum Rent, shall be computed on the basis of the average monthly amount thereof accruing during the immediately preceding three (3) month period prior to Default, except that if it becomes necessary to compute such Rent and additional Rent before such three (3) month period has occurred, then the same shall be computed on the basis of the average monthly amount accruing during such shorter period. In the event Landlord shall file any legal action for the collection of Rent or any eviction proceeding, whether summary or otherwise, for the non-payment of Rent, and County shall make payment of such Rent due and payable prior to the rendering of any judgment, then Landlord shall be entitled to collect, and County shall be obligated to pay all court filing fees.

SECTION 16.4. REMEDIES.

A. In the event of any Default by County, Landlord shall also have the right to reenter the Premises and remove all persons and property from said Premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of County. Landlord shall have no liability to County for any loss or damage whatsoever resulting from such entry by Landlord, and County hereby agrees to pay as additional Rent upon demand any expenses or fees incurred or paid by Landlord as a result thereof. Landlord can seek damages permitted by law.

B. **Landlord's Remedies.** Upon the occurrence of an Event of Default by County, Landlord shall be entitled to all remedies available to Landlord at law or in equity, including, but not

limited to, the right to terminate the Lease, the right to evict County without terminating the Lease, the right to relet the Premises in Landlord's name (if the Lease has been terminated) or as agent for County (if County's right of possession has been terminated and this Lease has not been terminated), with any termination of this Lease or any eviction of County's (i.e., termination of County's right to possession) of the Premises to be effectuated by appropriate proceedings brought in the District Court for Montgomery County, Maryland, the Circuit Court for Montgomery county, Maryland, or in any other court of competent jurisdiction located in Montgomery County, Maryland. Notwithstanding the termination of this Lease or eviction of County, County shall remain liable for any and all claims, costs, damages, expenses, fees, liabilities and losses suffered or incurred by or on behalf of Landlord as a result of County's default as determined by a court of competent jurisdiction in Montgomery County, Maryland. In addition, Landlord may (but shall not be obligated to), without waiving such default, perform same for the account and at the expense of County (in which case County shall pay Landlord all costs of such performance promptly upon receipt of a bill therefor).

C. Recovery of Rent. In the event of any deficiency in the payment of rental during the Term (disregarding any early termination thereof), which is not cured by County within ten (10) days after receipt of written demand therefore from Landlord, or if the County shall vacate or abandon said Premises, Landlord may, by appropriate proceedings, recover the rents then due hereunder or, at its option, Landlord may re-rent from time to time said Premises for the account of the County, and such re-renting may be for a term or terms equal to, less, or greater than the remaining term hereunder, provided the County shall not be liable for any deficiency in rent for any part of the term of such re-renting beyond the term of this Lease. Landlord shall be entitled to collect the rent accruing under such re-renting and to apply the same first to all costs and expenses, including the portion of any arm's length commissions, "standard" improvements and repairs necessary for re-renting (but in the case of any capital expense of reletting which is incurred for a replacement lease that extends beyond the remaining term of this Lease, only the portion thereof which corresponds to the unexpired term of this Lease shall be recovered by Landlord), and to reasonable attorney's fees incurred in connection with such re-renting and collection of rentals, and the balance of any such rents collected shall be applied to the deficiency in accrued rent under this Lease. In such event, and at Landlord's option, Landlord shall have the right to recover any remaining deficiency or unrecovered sums from the County, in one or more suits from time to time, and such deficiencies accrue. In the event of any suit by Landlord to recover possession, or for unpaid rent, Landlord shall also be entitled to recover (i) costs of suit, including reasonable attorney's fees and (ii) reasonable costs of re-renting the Premises, including leasing commissions, standard improvements and repairs, to the extent not otherwise recovered by Landlord under the operation of any other damages clause in this Section (but in the case of any capital expense of reletting which is incurred for a replacement lease that extends beyond the remaining term of this Lease, only the portion thereof which corresponds to the unexpired term of this Lease shall be recovered by Landlord).

D. WAIVER OF NOTICE TO QUIT, RIGHT OF REDEMPTION. TO THE EXTENT PERMITTED BY APPLICABLE LAW, COUNTY HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION AND RIGHTS TO CURE ANY DEFAULT HEREUNDER (HOWSOEVER DENOMINATED) AFTER LANDLORD RECOVERS POSSESSION OF THE PREMISES NOT OR HEREAFTER GRANTED TO COUNTY PURSUANT TO APPLICABLE LAW. NO ACCEPTANCE BY LANDLORD OF ANY MONIES OWED BY COUNTY TO LANDLORD SHALL CONSTITUTE A WAIVER OF THE PROVISIONS OF THIS ARTICLE, NOR SHALL ANY REFUSAL BY LANDLORD TO ACCEPT ANY TENDER BY COUNTY OF ANY SUMS OWED BY COUNTY TO LANDLORD, IN CONNECTION WITH ANY PURPORTED EXERCISE OF ANY RIGHT OF REDEMPTION OR RIGHT TO CURE TO WHICH COUNTY WOULD OTHERWISE BE ENTITLED, CONSTITUTE A TERMINATION OF THIS LEASE OR A RELEASE OF COUNTY FROM ANY LIABILITY HEREUNDER. EXCEPT FOR ANY WRITTEN NOTICE OF DEFAULT AND OPPORTUNITY TO CURE REQUIRED TO BE GIVEN TO COUNTY UNDER THE TERMS OF THIS SECTION, ABOVE, AND EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY PURSUANT TO APPLICABLE LAW, COUNTY HEREBY EXPRESSLY WAIVES THE SERVICE OF ANY NOTICE TO CURE OR VACATE OR TO QUIT THE PREMISES.

E. Landlord may also perform, on behalf and at the expense of County, any obligation of County under the Lease which County has failed to perform under Section 4.4 and 4.8, Article VII, Sections 9.2, 9.3, 9.4, 9.6, 9.7, 9.8(C), 10.2 and 11.4, the cost of which shall be deemed additional Rent and shall be payable by County to Landlord upon demand, along with an administrative fee equal to ten percent (10%) of such cost to cover Landlord's overhead in connection therewith. In performing any obligations of County, Landlord shall incur no liability for any loss or damage that may accrue to County, the Premises or County's Property by reason

thereof, except if caused by Landlord's willful and malicious act. The performance by Landlord of any such obligation shall not constitute a release or waiver of any of County's obligations under the Lease.

F. Subject to the applicable notice and cure periods in Section 16.1(A), if (i) County fails to make any payment under this Lease when due, (ii) Landlord performs any obligation of County under this Lease, or (iii) Landlord incurs any costs or expenses as a result of County's Default under this Lease, then County shall pay, upon demand, Interest from the date such payment was due or from the date Landlord incurs such costs or expenses relating to the performance of any such obligation or County's Default, as the case may be, plus the payment due under (i), or the amount of such costs and expenses incurred under (ii) or (iii), and Landlord's administrative costs in connection therewith regardless of whether or not otherwise expressly provided for in this Lease.

SECTION 16.5. MISCELLANEOUS.

A. The rights given to Landlord herein are in addition to any rights that may be given to Landlord by any statute or otherwise.

B. All rights and remedies of Landlord herein created or otherwise extending at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as deemed desirable. No reference to any specific right or remedy in this Lease shall preclude Landlord from exercising any other right, from having any other remedy, or from maintaining any action to which it may otherwise be entitled under this Lease, at law or in equity.

SECTION 16.6. WAIVER.

A. Landlord or County shall not be deemed to have waived any provision of this Lease, including breach of any term, covenant, or condition herein contained, unless the same has been specifically waived by Landlord or County in a writing executed by an authorized officer of Landlord. Any waiver of a breach shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

B. Landlord and County hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against County or County against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, County's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

C. If Landlord shall commence any proceeding for non-payment of Rent, or any other payment of any kind to which Landlord may be entitled or which it may claim hereunder, the parties thereto specifically agreeing that County covenants to pay Rent or any other payments required of it hereunder are independent of all other covenants and agreements herein contained.

D. Default by Landlord.

(a) If the Landlord or Landlord's assigns shall fail or neglect to keep and perform any of Landlord's covenants, conditions, and agreement as contained herein, and such failure or neglect is not remedied with twenty (20) days (or such longer period as may be reasonably required to correct the default with exercise of due diligence) after written notice from the County or County's assigns specifying the default, then the County or County's assigns, at County's option, may pursue any legal remedies available to County, including actions necessary to mitigate damages, but expressly excluding any termination, rescission or action for damages. Among other remedies permitted to be exercised by County upon a default by Landlord of its obligations hereunder after expiration of applicable cure periods established under this Section, in the event any such default impairs County's use, occupancy and/or enjoyment of the Premises, County may, but shall not be obligated to, perform any such obligation of Landlord, and all reasonable sums paid by County under this Section shall be due and payable by Landlord (together with interest at the Interest Rate from the date such amount was paid by county to the date such amount was repaid by Landlord) within thirty (30) days after County's written demand to Landlord accompanied by reasonable substantiation of the applicable costs. The foregoing right to perform Landlord's obligations shall only apply after the requisite notice and opportunity to cure has been afforded to Landlord and only if Landlord is not diligently engaged in curing such default. To the extent any amounts paid by

Landlord to County in respect of County's exercise of self-help rights under this Section would have constituted Operating Costs recoverable by Landlord under (and pursuant to the terms and limitations of) Article VI of this Lease, the amount reimbursed by Landlord to County (excluding any interest) shall be included in Operating Costs (as the case may be) for the period in question.

(b) If Landlord, within thirty (30) days after the receipt from County of its written demand therefor, fails to reimburse County for the reasonable costs and expenses of County's exercise of its self help rights hereunder, or any other sums due and payable from Landlord to County under this Lease, County may seek the entry of a judgment against Landlord for the amount thereof, plus interest at the Interest Rate (from the date such amount was payable by Landlord to County until the date actually paid by Landlord). If County thereafter obtains a final, non-appealable judgment against Landlord, and Landlord fails to pay the amount thereof within thirty (30) days after the date of such judgment, County shall have the right to offset the amount of such judgment against the net payments of Minimum Rent and additional Rent payable by County hereunder, until satisfied.

E. No Waiver. In the event that proceedings shall at any time be commenced for recovery of possession as aforesaid and a compromise or settlement shall be effected either before or after judgment whereby County shall be permitted to retain possession of said Premises, then such proceedings shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or of this agreement. No waiver of any breach of any condition or agreement contained herein shall be construed to be a waiver of that condition or agreement or of any subsequent breach thereof, or of this agreement.

F. Remedies Cumulative. Except as otherwise expressly set forth herein, all remedies granted in this section or otherwise provided by law shall be cumulative and, unless inconsistent, may be exercised separately or concurrently, or successively.

G. Prevailing Party Attorneys' Fees. If any action or proceeding is brought by either party against the other pertaining to or arising out of this Lease, the prevailing party may, in the discretion of the Court, be awarded its costs and expenses, including reasonable attorneys' fees, incurred on account of the claims on which such party prevailed in such action or proceeding (the entitlement to reimbursement of reasonable attorneys' fees being determined in the discretion of the Court on a claim by claim basis). For purposes of the foregoing sentence, the "prevailing party" shall be deemed to be the party which, upon resolution of the action (whether by voluntary withdrawal, unilateral action, mutual settlement, dismissals or judgment), has obtained substantially the relief sought by such party in such action for the claim in question; provided that, Landlord shall in all events be deemed to be the prevailing party in any action in which Landlord is granted judgment for possession of the Premises.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

SECTION 17.1. NOTICES.

A. Whenever any demand, request, approval, consent or notice shall or may be given by one party to the other, notice shall be addressed to the parties at their respective addresses as set forth in Section 1.1 and delivered by (i) hand, (ii) a nationally recognized overnight express courier, or (iii) registered or certified mail, return receipt requested. Notice will be deemed to have been given on the date received. In the event an addressee refuses to or does not accept delivery, however, then notice shall be deemed to have been served on either (i) the date hand delivery was attempted, (ii) the next business day in the case of delivery by overnight courier, or (iii) three (3) business days after mailing the notice in the case of registered or certified mail. Either party may, at any time, change its notice address by giving the other party notice, in accordance with the above, stating the change and setting forth the new address.

B. If any Mortgagee shall notify County that it is the holder of a Mortgage affecting the Premises, no Notice thereafter sent by County to Landlord shall be effective unless and until a copy of the same shall also be sent to such Mortgagee in the manner prescribed in this Section 17.1. and to such address as such Mortgagee shall designate.

SECTION 17.2. RECORDING. Neither this Lease nor a memorandum thereof shall be recorded without the written consent of Landlord in its sole and absolute discretion, provided, however, that County may, at
Fallsgrove Village Center

MCABC
Execution - 04/08/2003

its sole cost and expense, record this Lease and, upon the expiration or earlier termination of this Lease County shall (at County's sole cost) execute and record a release of such memorandum in form and substance satisfactory to Landlord.

SECTION 17.3. INTEREST AND ADMINISTRATIVE COSTS. INTENTIONALLY DELETED.

SECTION 17.4. LEGAL EXPENSES. If any action or proceeding is brought by either party against the other pertaining to or arising out of this Lease, the prevailing party may, in the discretion of the Court, be awarded its costs and expenses, including reasonable attorneys' fees, incurred on account of the claims on which such party prevailed in such action or proceeding (the entitlement to reimbursement of reasonable attorneys' fees being determined in the discretion of the Court on a claim by claim basis). For purposes of the foregoing sentence, the "prevailing party" shall be deemed to be the party which, upon resolution of the action (whether by voluntary withdrawal, unilateral action, mutual settlement, dismissals or judgment), has obtained substantially the relief sought by such party in such action for the claim in question; provided that, Landlord shall in all events be deemed to be the prevailing party in any action in which Landlord is granted judgment for possession of the Premises.

SECTION 17.5. SUCCESSORS AND ASSIGNS. This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord and County, and their respective permitted successors and assigns. Upon any sale or other transfer by Landlord of its interest in the Premises, Landlord shall be relieved of any obligations under this Lease occurring subsequent to such sale or other transfer.

SECTION 17.6. LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD. Anything in this Lease to the contrary notwithstanding, County shall look solely to Landlord's interest in the Shopping Center (including the net proceeds of insurance and condemnation thereof), but not to any other personal assets, or separate business or non-business assets, of Landlord, or any partner, shareholder, member, officer or representative of Landlord, for the satisfaction of any claim brought by County against Landlord; and if Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed, and as a consequence of such default County shall recover a money judgment against Landlord, such judgment shall be satisfied only (i) out of the proceeds of sale received upon levy against the right, title and interest of Landlord in the Shopping Center, (ii) out of the net proceeds of insurance or condemnation in respect of the Shopping Center, and/or (iii) to the extent not encumbered by a secured creditor, out of the rents or other incomes receivable by Landlord from the Shopping Center. County shall not have the right to terminate this Lease or to withhold, reduce or offset any amount against any payments of Rent or any other charges due and payable under this Lease, except as otherwise specifically provided herein.

SECTION 17.7. SECURITY DEPOSIT. INTENTIONALLY DELETED.

SECTION 17.8. ENTIRE AGREEMENT. (A) This Lease, and the exhibits attached hereto and any Addenda attached hereto, set forth all the covenants, agreements, conditions and understandings between Landlord and County concerning the Premises and the Shopping Center, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than those expressly, set forth herein. All negotiations and oral agreements acceptable to both parties here been merged into and are included herein, it being understood that this Lease supersedes and cancels any and all previous negotiations, arrangements, letters of intent, lease proposals, agreements, brochures, understandings, promises, warranties and representations, and none thereof shall be used to interpret or construe this Lease. County expressly acknowledges and represents that it has entered into this Lease in reliance upon County's own independent investigation and that Landlord or Landlord's employees or agents have made no representations, warranties, inducements or promises with respect to the Shopping Center or the Premises except as expressly set forth in this Lease. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or County unless reduced to writing and signed by them. The provisions of this Lease are solely for the purpose of setting forth the obligations of Landlord and County and shall not be deemed to imply or confer any right or benefit upon any third parties.

(B) County acknowledges that, unless otherwise herein specifically provided herein or by operation of law, it does not have any exclusive rights in the Shopping Center with respect to the sale of its merchandise or the provision of its services.

SECTION 17.9. SEVERABILITY. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

SECTION 17.10. JOINT AND SEVERAL LIABILITY. INTENTIONALLY DELETED.

SECTION 17.11. BROKER'S COMMISSION. Landlord and County warrant and represent to each other that no broker, finder or agent has acted for or on their behalf in connection with the negotiation, execution or procurement of this Lease.

SECTION 17.12. IRREVOCABLE OFFER, NO OPTION. Although County's execution of this Lease shall be deemed an offer irrevocable by County, the submission of this Lease by Landlord to County for examination shall not constitute a reservation of or option for the Premises. This Lease shall become effective only upon execution thereof by both parties and delivery thereof to County.

SECTION 17.13. INABILITY TO PERFORM. If Landlord is delayed or prevented from performing any of its obligations under this Lease by reason of strike, labor troubles, weather, natural disaster, accident, casualty or any cause whatsoever beyond Landlord's control, the period of such delay or such prevention shall be deemed added to the time herein provided for the performance of any such obligation by Landlord.

SECTION 17.14. SURVIVAL. Notwithstanding anything to the contrary contained in this Lease, the expiration of the Term of this Lease, whether by lapse of time or otherwise, shall not relieve County from its obligations accruing prior to the expiration of the Term.

SECTION 17.15. CORPORATE (OR OTHER TYPE-ENTITY) COUNTY'S County hereby represents that it has received the requisite authority and approvals to enter into this Lease, and that the person(s) executing this Lease on County's behalf is authorized so to do.

SECTION 17.16 RELATIONSHIP OF PARTIES. The parties hereto agree that it is their intention hereby to create only the relationship of Landlord and Tenant, and that no provision hereof or act of either party hereunder, shall ever be construed as creating the relationship of principal and agent, or a partnership, or a joint venture or enterprise between the parties hereto.

SECTION 17.17 RULE AGAINST PERPETUITIES AND DELIVERY OF POSSESSION. If Landlord shall be unable to deliver possession of the Premises on the Term Commencement Date for any reason, Landlord shall not be subject to any liability for failure to deliver possession; under such circumstances, the Minimum Rent and all other Rent shall be abated until delivery of possession or until such later date after the actual possession date provided for in the Lease, and such failure to deliver possession shall not in any other manner affect the validity of this Lease or the obligations of County hereunder. Notwithstanding anything to the contrary in the Lease, if the Term shall not have commenced within eighteen (18) months of the date hereof, then the Lease shall become void and both parties shall be relieved of all obligations.

SECTION 17.18 TIME IS OF THE ESSENCE. With respect to the payment of Rent and the performance by County of all of its obligations and covenants under this Lease, time is and shall be of the essence.

SECTION 17.19 LENDER MODIFICATION. INTENTIONALLY DELETED.

SECTION 17.20 OTHER TENANTS. Landlord reserves the absolute right to effect other tenancies in the Shopping Center as Landlord shall determine in the exercise of its sole business judgment. County does not rely on the fact, nor does Landlord represent, that any specific tenant or type of tenant shall occupy or continue to occupy any space in the Shopping Center during the Term.

SECTION 17.21 FINANCIAL STATEMENTS. INTENTIONALLY DELETED.

SECTION 17.22 ATTORNEY-IN-FACT. INTENTIONALLY DELETED.

SECTION 17.23 MERGER. INTENTIONALLY DELETED.

SECTION 17.24 NON WAIVER. No agreement to accept, subject to non-appropriations, to a surrender of the Premises prior to the expiration of the Term shall be valid unless in writing and signed by an authorized representative of Landlord. The delivery of keys by or on behalf of County for any part of the Premises to any employee or partner of Landlord or to Landlord's agent or any employee of such agent shall not operate as a termination of this Lease or as a surrender of the Premises. The failure of Landlord to seek redress for violation of, or to insist on the strict performance of, any covenant of this Lease or any of the rules and regulations in effect from time to time, whether by express waiver or otherwise, shall not prevent a subsequent action which would have originally constituted a violation, from having all the force and effect of any original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of the rules and regulations against County or any other tenant in the Shopping Center shall not be deemed a waiver of any such rule or regulation. No payment by County or receipt by Landlord of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the stipulated Rent nor shall any endorsement or statement on any check or any letter accompanying any check or payment of Rent be deemed a settlement of a legal dispute or an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy. Landlord's consent to, or approval of, or failure to take action on any act by County requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by County.

SECTION 17.25 REPRESENTATION. It is understood and agreed by Landlord and County that the other and their employees and agents have made no representations or promises with respect to the Premises or the making or entry into the Lease, except as in this Lease expressly set forth, and that no claim or liability, or cause for termination, shall be asserted by either party against the other for, and such party shall not be liable by reason of, the breach of any representations or promises not expressly stated in this Lease.

SECTION 17.26 OBJECTIONS TO STATEMENTS. INTENTIONALLY DELETED.

SECTION 17.27 HAZARDOUS MATERIALS. Landlord and County acknowledge that they are subject to all Federal, State, County and local environmental laws and regulations.

SECTION 17.28 APPLICABLE LAW. This Lease shall be governed by and construed in accordance with the laws of the State of Maryland and shall not be construed either for or against Landlord or County, but shall be interpreted as a whole according to its fair meaning. Any claim or action filed by either Landlord or County under the terms of this Lease must be filed in a court of competent jurisdiction located in Montgomery County, Maryland.

SECTION 17.29 CONDITIONAL LIMITATIONS. Each term and provision of this Lease to be performed by County shall be construed as both a covenant and a condition.

SECTION 17.30 COUNTERPARTS; PHOTOSTATIC COPIES. INTENTIONALLY DELETED.

SECTION 17.31 NON-DISCRIMINATION. Landlord agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 11B-3 and Section 27-19 of the Montgomery County Code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. The Landlord represents to the County that in accordance with the applicable law, it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, sexual orientation or genetic status.

SECTION 17.32 NON-APPROPRIATION. This Lease is subject to the annual appropriation of funds by the Montgomery County Council. If funds are not appropriated, for any reason whatsoever, this Lease will automatically terminate on July 1st of the calendar year which the County does not appropriate funds. The County shall give Landlord at least thirty (30) days written notice of the lack of appropriation. The County shall not make or be entitled to any claim for reimbursement of any kind, whether for improvements or prepaid items.

SECTION 17.33 CONTRACT SOLICITATION. Landlord represents that it has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage brokerage or contingent fee, except for bona fide

employees or bona fide established, licensed commercial selling or leasing agencies maintained by the Landlord for the purpose or securing business or an attorney rendering professional legal service consistent with applicable canons of ethics.

SECTION 17.34 PUBLIC EMPLOYMENT. Landlord understands that unless authorized under Section 11B-52 or Chapter 19A of the Montgomery County Code 1994, as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

SECTION 17.35 INTERPRETATION. Captions throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease. The use of the terms "hereof", "hereunder" and "herein" shall refer to this Lease as a whole, inclusive of the exhibits, except when noted otherwise. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders. The singular form shall include the plural when the context so requires. As used herein the terms "Landlord" and "County" shall mean and include "Landlord" and "County" and "its/their agents and employees," unless the context otherwise requires. All of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate provision hereof. County declares that County has read and understands all parts of this Lease, including all printed parts hereof. It is agreed that in the construction and interpretation of the terms of this Lease, that any rule of construction that a document is to be construed most strictly against the party who prepared the same shall not be applied and is waived, it being agreed that both parties hereto have participated in the preparation of the final form of this Lease. In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon shall be given equal weight.

THIS LEASE IS SUBJECT TO AN ADDENDUM ATTACHED HERETO AND MADE A PART HEREOF.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have executed this Lease under their respective hands and seals as of the day and year first above written.

WITNESS OR ATTEST:

LANDLORD:
FG RETAIL GROUP, L.L.C.,
a Maryland limited liability company

By: Lerner Enterprises Limited Partnership,
a Maryland limited partnership,
a Managing Member

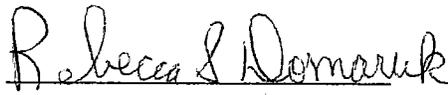
By: Taleco Partners, LLC,
a Delaware limited liability company,
its General Partner

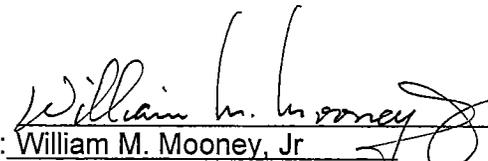

_____ 

By:  _____  (SEAL)
Mark D. Lerner
Executive Vice President

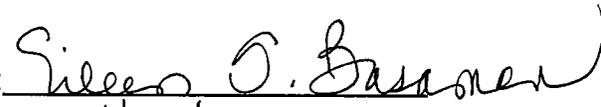
WITNESS OR ATTEST:

COUNTY:
MONTGOMERY COUNTY, MARYLAND,



By:  _____ (SEAL)
Name: William M. Mooney, Jr
Title: Assistant Chief Administrative Officer

Approved as to Form and Legality
Office of the County Attorney

By: 

Date: 4/15/2003

Recommended:
Facilities Services Section:

By: 

Date: 4/14/03

COUNTY OF Frederick
STATE OF MARYLAND

I hereby certify that on this 15th day of May, 2003, before me, a Notary Public, in and for the State of Maryland, personally appeared Mark D. Lerner, Executive Vice President of Taleco Partners, LLC, which is General Partner of Lerner Enterprises Limited Partnership, which is a Managing Member of FG Retail Group, L.L.C., and on behalf of said limited liability company did acknowledge the foregoing Lease, including the attached Addendum, if any, to be the act and deed of said entity.

Witness my hand and notarial seal.

Mindy C. Dunnigan
Notary Public

MINDY C. DUNNIGAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 1, 2005

My Commission Expires _____

COUNTY OF Montgomery
STATE OF Maryland

I hereby certify that on this 16 day of April, 2003, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared William Mooney, Assistant Chief Administrative Officer of MONTGOMERY COUNTY, MARYLAND, and on behalf of said Montgomery County did acknowledge the foregoing Lease, including the attached Addendum, if any, to be the act and deed of said Montgomery County.

Witness my hand and notarial seal.

Deborah A. Richards
Notary Public

DEBORAH A. RICHARDS
NOTARY PUBLIC
MY COMMISSION EXPIRES
3-1-04

My Commission Expires 3-1-04

ADDENDUM

The foregoing attached Deed of Lease dated May 1st, 2003, between FG RETAIL GROUP, L.L.C., as Landlord and MONTGOMERY COUNTY, MARYLAND, as County (hereinafter called the "Lease") is modified, amended, and/or supplemented as hereinafter set forth, and any language of or provision in the Lease inconsistent or in conflict with the following, and not herein expressly referred to, shall be deemed appropriately amended or modified.

1. LEASE INCENTIVE PAYMENT:

Landlord agrees that as an inducement for County to enter into this Lease, Landlord shall pay to County the Lease Incentive Payment in the amount of Fifty-Seven Thousand Nine Hundred Seventy-Five and 00/100 Dollars (\$57,975.00) within thirty (30) days after satisfaction of the "Payment Conditions", as defined below. For purposes of this Lease, the Payment Conditions shall include:

- A. Landlord and County mutually executing the Lease;
- B. County completing County's Work according to County's final approved plans and specifications, and obtaining final, unconditional lien waivers from County's general contractor, waiving any liens against the Premises and the Shopping Center, as well as a general contractor's affidavit specifying the names of all contractors, subcontractors, suppliers and material persons who have supplied labor, services, goods or materials to the Premises and stating that all such listed persons and entities have been paid in full and Landlord agrees that a duly executed AIA Form G706A (without attachments) is sufficient to satisfy this requirement;
- C. County not being in Default of the Lease beyond any applicable cure periods;
- D. County submitting a written request, together with any necessary documentation as set forth above, for the Lease Incentive Payment; and
- E. County opening for business in the Premises.